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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,495	09/22/2003	Jesse L. Hearne	8632.2C	2280

7590

10/05/2005

Mr. Lynn G. Foster
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Salt Lake City, UT 84102

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/668,495

Applicant(s)

HEARNE, JESSE L.

Examiner

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3, 11, 15, 16, 18-20 and 47-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11, 15, 16, 18-20 and 68 is/are allowed.
- 6) ☒ Claim(s) 3, 47 and 55 is/are rejected.
- 7) ☒ Claim(s) 48-54, 56-67 and 69-71 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

The indicated allowability of claim 3 is withdrawn in view of a more careful review of the reference(s) to KAVECKIS et al. Rejections based on the newly cited reference(s) follow.

Claim Objections

Claim 15 is objected to because of the following informalities: In claim 15, line 18, "align" should be --aligned--. Also, a period (.) needs to be inserted at the end of the sentence.

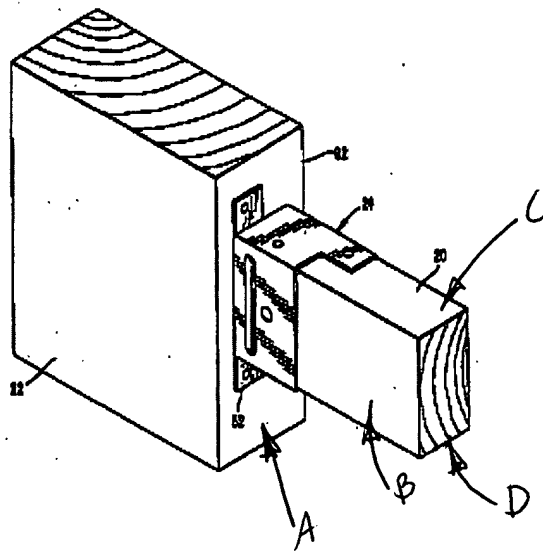
Claims 48-54, 56-67 and 69-71 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. All of the aforementioned claims depend upon an independent claim that was previously canceled. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,976,075 to KAVECKIS et al. KAVECKIS et al. discloses an attachment system including first (16d) and second (16b) members, a hinge member (16c) such that the first (16d) and second (16b) pivot with respect to the hinge member (16c) between an assembly position and a final position; wherein, the first (16d) and second (16b) members are "substantially" parallel in the assembly position and perpendicular in the final position, see figures 5-8.

Claim 47 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,186,571 to HENTZSCHEL. HENTZSCHEL discloses a one piece blank (24) including a first segment (32) disposed contiguous to a surface (A) of a first work piece (22), a second segment (26) with two flat surfaces (the front and back thereof) and two transverse fold lines (34,36) such that the blank (24) is contiguous with a second surface (B) and a third surface (C) of a second work piece (20), see below, and



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apertures (60) to receive fasteners (column 5, lines 20-21) formed in the blank that become aligned when joining the work pieces (20,22) in a non-rotatable fashion.

Claim 55 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,186,571 to HENTZSCHEL. HENTZSCHEL discloses a thin one piece connector (24), a first work piece (22) a second work piece (20) such that the connector (24) is deformed to engage one surface (A) of the first work piece (22) and three surfaces (B,C,D) of a second work piece (20), and a fastener (column 5, lines 20-21) at two spaced (60,62) such that the connector is attached thereto in a non-rotatable fashion.

Allowable Subject Matter

Claims 11,15,16,18-20 and 68 are allowed.

Response to Arguments

Applicant's arguments filed 6/22/05 regarding the prior art reference to KAVECKIS et al. have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the connector preventing transverse rotation of one member with respect to a second member, the connector preventing sliding, and the connector itself being inflexible) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

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In response to applicant's argument that the connector is not intended to make a connection for the final construction, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Regarding the applicant's argument that the device of KAVECKIS et al. functions differently than the applicant's invention, the applicant is reminded that the manner in which a device is employed does not differentiate the device from a prior art device satisfying the claimed structural limitations.

In reference to the applicant's argument that the device of KAVECKIS et al. does not satisfy the means-plus-function anticipation of the terms as set forth in the claims, there are no "means" terms present in the claims. Further, structureless terms without a function affords no basis for judging whether a structure different from that disclosed by the applicant would be obvious over that cited in the prior art.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne M. Horton
Art Unit 3635
9/19/05